

1 AN ACT concerning security information.

2 Be it enacted by the People of the State of Illinois,  
3 represented in the General Assembly:

4 Section 5. The Open Meetings Act is amended by changing  
5 Section 2 as follows:

6 (5 ILCS 120/2) (from Ch. 102, par. 42)

7 Sec. 2. Open meetings.

8 (a) Openness required. All meetings of public bodies  
9 shall be open to the public unless excepted in subsection (c)  
10 and closed in accordance with Section 2a.

11 (b) Construction of exceptions. The exceptions  
12 contained in subsection (c) are in derogation of the  
13 requirement that public bodies meet in the open, and  
14 therefore, the exceptions are to be strictly construed,  
15 extending only to subjects clearly within their scope. The  
16 exceptions authorize but do not require the holding of a  
17 closed meeting to discuss a subject included within an  
18 enumerated exception.

19 (c) Exceptions. A public body may hold closed meetings  
20 to consider the following subjects:

21 (1) The appointment, employment, compensation,  
22 discipline, performance, or dismissal of specific  
23 employees of the public body, including hearing testimony  
24 on a complaint lodged against an employee to determine  
25 its validity.

26 (2) Collective negotiating matters between the  
27 public body and its employees or their representatives,  
28 or deliberations concerning salary schedules for one or  
29 more classes of employees.

30 (3) The selection of a person to fill a public  
31 office, as defined in this Act, including a vacancy in a

1 public office, when the public body is given power to  
2 appoint under law or ordinance, or the discipline,  
3 performance or removal of the occupant of a public  
4 office, when the public body is given power to remove the  
5 occupant under law or ordinance.

6 (4) Evidence or testimony presented in open  
7 hearing, or in closed hearing where specifically  
8 authorized by law, to a quasi-adjudicative body, as  
9 defined in this Act, provided that the body prepares and  
10 makes available for public inspection a written decision  
11 setting forth its determinative reasoning.

12 (5) The purchase or lease of real property for the  
13 use of the public body, including meetings held for the  
14 purpose of discussing whether a particular parcel should  
15 be acquired.

16 (6) The setting of a price for sale or lease of  
17 property owned by the public body.

18 (7) The sale or purchase of securities,  
19 investments, or investment contracts.

20 (8) Security procedures and the use of personnel  
21 and equipment to respond to an actual, a threatened, or a  
22 reasonably potential danger to the safety of employees,  
23 students, staff or public property.

24 (9) Student disciplinary cases.

25 (10) The placement of individual students in  
26 special education programs and other matters relating to  
27 individual students.

28 (11) Litigation, when an action against, affecting  
29 or on behalf of the particular public body has been filed  
30 and is pending before a court or administrative tribunal,  
31 or when the public body finds that an action is probable  
32 or imminent, in which case the basis for the finding  
33 shall be recorded and entered into the minutes of the  
34 closed meeting.

1           (12) The establishment of reserves or settlement of  
2 claims as provided in the Local Governmental and  
3 Governmental Employees Tort Immunity Act, if otherwise  
4 the disposition of a claim or potential claim might be  
5 prejudiced, or the review or discussion of claims, loss  
6 or risk management information, records, data, advice or  
7 communications from or with respect to any insurer of the  
8 public body or any intergovernmental risk management  
9 association or self insurance pool of which the public  
10 body is a member.

11           (13) Conciliation of complaints of discrimination  
12 in the sale or rental of housing, when closed meetings  
13 are authorized by the law or ordinance prescribing fair  
14 housing practices and creating a commission or  
15 administrative agency for their enforcement.

16           (14) Informant sources, the hiring or assignment of  
17 undercover personnel or equipment, or ongoing, prior or  
18 future criminal investigations, when discussed by a  
19 public body with criminal investigatory responsibilities.

20           (15) Professional ethics or performance when  
21 considered by an advisory body appointed to advise a  
22 licensing or regulatory agency on matters germane to the  
23 advisory body's field of competence.

24           (16) Self evaluation, practices and procedures or  
25 professional ethics, when meeting with a representative  
26 of a statewide association of which the public body is a  
27 member.

28           (17) The recruitment, credentialing, discipline or  
29 formal peer review of physicians or other health care  
30 professionals for a hospital, or other institution  
31 providing medical care, that is operated by the public  
32 body.

33           (18) Deliberations for decisions of the Prisoner  
34 Review Board.

1           (19) Review or discussion of applications received  
2 under the Experimental Organ Transplantation Procedures  
3 Act.

4           (20) The classification and discussion of matters  
5 classified as confidential or continued confidential by  
6 the State Employees Suggestion Award Board.

7           (21) Discussion of minutes of meetings lawfully  
8 closed under this Act, whether for purposes of approval  
9 by the body of the minutes or semi-annual review of the  
10 minutes as mandated by Section 2.06.

11           (22) Deliberations for decisions of the State  
12 Emergency Medical Services Disciplinary Review Board.

13           (23) The operation by a municipality of a municipal  
14 utility or the operation of a municipal power agency or  
15 municipal natural gas agency when the discussion involves  
16 (i) contracts relating to the purchase, sale, or delivery  
17 of electricity or natural gas or (ii) the results or  
18 conclusions of load forecast studies.

19           (24) Dangers to the safety of the public, including  
20 discussion of and the planning of procedures and use of  
21 personnel and equipment to prevent or respond to an  
22 actual, threatened, or reasonably potential danger to the  
23 safety of the public or to public property.

24           (d) Definitions. For purposes of this Section:  
25 "Employee" means a person employed by a public body whose  
26 relationship with the public body constitutes an  
27 employer-employee relationship under the usual common law  
28 rules, and who is not an independent contractor.

29 "Public office" means a position created by or under the  
30 Constitution or laws of this State, the occupant of which is  
31 charged with the exercise of some portion of the sovereign  
32 power of this State. The term "public office" shall include  
33 members of the public body, but it shall not include  
34 organizational positions filled by members thereof, whether

1 established by law or by a public body itself, that exist to  
2 assist the body in the conduct of its business.

3 "Quasi-adjudicative body" means an administrative body  
4 charged by law or ordinance with the responsibility to  
5 conduct hearings, receive evidence or testimony and make  
6 determinations based thereon, but does not include local  
7 electoral boards when such bodies are considering petition  
8 challenges.

9 (e) Final action. No final action may be taken at a  
10 closed meeting. Final action shall be preceded by a public  
11 recital of the nature of the matter being considered and  
12 other information that will inform the public of the business  
13 being conducted.

14 (Source: P.A. 90-144, eff. 7-23-97; 91-730, eff. 1-1-01.)

15 Section 10. The Freedom of Information Act is amended by  
16 changing Section 7 as follows:

17 (5 ILCS 140/7) (from Ch. 116, par. 207)

18 Sec. 7. Exemptions.

19 (1) The following shall be exempt from inspection and  
20 copying:

21 (a) Information specifically prohibited from  
22 disclosure by federal or State law or rules and  
23 regulations adopted under federal or State law.

24 (b) Information that, if disclosed, would  
25 constitute a clearly unwarranted invasion of personal  
26 privacy, unless the disclosure is consented to in writing  
27 by the individual subjects of the information. The  
28 disclosure of information that bears on the public duties  
29 of public employees and officials shall not be considered  
30 an invasion of personal privacy. Information exempted  
31 under this subsection (b) shall include but is not  
32 limited to:

1 (i) files and personal information maintained  
2 with respect to clients, patients, residents,  
3 students or other individuals receiving social,  
4 medical, educational, vocational, financial,  
5 supervisory or custodial care or services directly  
6 or indirectly from federal agencies or public  
7 bodies;

8 (ii) personnel files and personal information  
9 maintained with respect to employees, appointees or  
10 elected officials of any public body or applicants  
11 for those positions;

12 (iii) files and personal information  
13 maintained with respect to any applicant, registrant  
14 or licensee by any public body cooperating with or  
15 engaged in professional or occupational  
16 registration, licensure or discipline;

17 (iv) information required of any taxpayer in  
18 connection with the assessment or collection of any  
19 tax unless disclosure is otherwise required by State  
20 statute; and

21 (v) information revealing the identity of  
22 persons who file complaints with or provide  
23 information to administrative, investigative, law  
24 enforcement or penal agencies; provided, however,  
25 that identification of witnesses to traffic  
26 accidents, traffic accident reports, and rescue  
27 reports may be provided by agencies of local  
28 government, except in a case for which a criminal  
29 investigation is ongoing, without constituting a  
30 clearly unwarranted per se invasion of personal  
31 privacy under this subsection.

32 (c) Records compiled (A) by any public body for  
33 administrative enforcement proceedings and any law  
34 enforcement or correctional agency for law enforcement

1 purposes or for internal matters of a public body, and  
2 (B) by any public body for emergency management plans,  
3 vulnerability or risk assessments, and security  
4 procedures for disaster preparedness, response, and  
5 recovery within the political subdivisions of the State,  
6 including the use of personnel and equipment to respond  
7 to an actual, threatened, or reasonably potential danger  
8 to the safety of the public and public property, but only  
9 to the extent that disclosure would:

10 (i) interfere with pending or actually and  
11 reasonably contemplated law enforcement proceedings  
12 conducted by any law enforcement or correctional  
13 agency;

14 (ii) interfere with pending administrative  
15 enforcement proceedings conducted by any public  
16 body;

17 (iii) deprive a person of a fair trial or an  
18 impartial hearing;

19 (iv) unavoidably disclose the identity of a  
20 confidential source or confidential information  
21 furnished only by the confidential source;

22 (v) disclose unique or specialized  
23 investigative techniques other than those generally  
24 used and known or disclose internal documents of  
25 correctional agencies related to detection,  
26 observation or investigation of incidents of crime  
27 or misconduct;

28 (vi) constitute an invasion of personal  
29 privacy under subsection (b) of this Section;

30 (vii) endanger the life or physical safety of  
31 law enforcement personnel or any other person; or

32 (viii) obstruct an ongoing criminal  
33 investigation; or -

34 (ix) interfere with the planning, preparation,

1 and training procedures for emergency and disaster  
2 preparedness, response, and recovery and the safety of  
3 the emergency response personnel, the public, and public  
4 property.

5 (d) Criminal history record information maintained  
6 by State or local criminal justice agencies, except the  
7 following which shall be open for public inspection and  
8 copying:

9 (i) chronologically maintained arrest  
10 information, such as traditional arrest logs or  
11 blotters;

12 (ii) the name of a person in the custody of a  
13 law enforcement agency and the charges for which  
14 that person is being held;

15 (iii) court records that are public;

16 (iv) records that are otherwise available  
17 under State or local law; or

18 (v) records in which the requesting party is  
19 the individual identified, except as provided under  
20 part (vii) of paragraph (c) of subsection (1) of  
21 this Section.

22 "Criminal history record information" means data  
23 identifiable to an individual and consisting of  
24 descriptions or notations of arrests, detentions,  
25 indictments, informations, pre-trial proceedings, trials,  
26 or other formal events in the criminal justice system or  
27 descriptions or notations of criminal charges (including  
28 criminal violations of local municipal ordinances) and  
29 the nature of any disposition arising therefrom,  
30 including sentencing, court or correctional supervision,  
31 rehabilitation and release. The term does not apply to  
32 statistical records and reports in which individuals are  
33 not identified and from which their identities are not  
34 ascertainable, or to information that is for criminal

1 investigative or intelligence purposes.

2 (e) Records that relate to or affect the security  
3 of correctional institutions and detention facilities.

4 (f) Preliminary drafts, notes, recommendations,  
5 memoranda and other records in which opinions are  
6 expressed, or policies or actions are formulated, except  
7 that a specific record or relevant portion of a record  
8 shall not be exempt when the record is publicly cited and  
9 identified by the head of the public body. The exemption  
10 provided in this paragraph (f) extends to all those  
11 records of officers and agencies of the General Assembly  
12 that pertain to the preparation of legislative documents.

13 (g) Trade secrets and commercial or financial  
14 information obtained from a person or business where the  
15 trade secrets or information are proprietary, privileged  
16 or confidential, or where disclosure of the trade secrets  
17 or information may cause competitive harm, including all  
18 information determined to be confidential under Section  
19 4002 of the Technology Advancement and Development Act.  
20 Nothing contained in this paragraph (g) shall be  
21 construed to prevent a person or business from consenting  
22 to disclosure.

23 (h) Proposals and bids for any contract, grant, or  
24 agreement, including information which if it were  
25 disclosed would frustrate procurement or give an  
26 advantage to any person proposing to enter into a  
27 contractor agreement with the body, until an award or  
28 final selection is made. Information prepared by or for  
29 the body in preparation of a bid solicitation shall be  
30 exempt until an award or final selection is made.

31 (i) Valuable formulae, computer geographic systems,  
32 designs, drawings and research data obtained or produced  
33 by any public body when disclosure could reasonably be  
34 expected to produce private gain or public loss.

1           (j) Test questions, scoring keys and other  
2 examination data used to administer an academic  
3 examination or determined the qualifications of an  
4 applicant for a license or employment.

5           (k) Architects' plans and engineers' technical  
6 submissions for projects not constructed or developed in  
7 whole or in part with public funds and for projects  
8 constructed or developed with public funds, to the extent  
9 that disclosure would compromise security.

10          (l) Library circulation and order records  
11 identifying library users with specific materials.

12          (m) Minutes of meetings of public bodies closed to  
13 the public as provided in the Open Meetings Act until the  
14 public body makes the minutes available to the public  
15 under Section 2.06 of the Open Meetings Act.

16          (n) Communications between a public body and an  
17 attorney or auditor representing the public body that  
18 would not be subject to discovery in litigation, and  
19 materials prepared or compiled by or for a public body in  
20 anticipation of a criminal, civil or administrative  
21 proceeding upon the request of an attorney advising the  
22 public body, and materials prepared or compiled with  
23 respect to internal audits of public bodies.

24          (o) Information received by a primary or secondary  
25 school, college or university under its procedures for  
26 the evaluation of faculty members by their academic  
27 peers.

28          (p) Administrative or technical information  
29 associated with automated data processing operations,  
30 including but not limited to software, operating  
31 protocols, computer program abstracts, file layouts,  
32 source listings, object modules, load modules, user  
33 guides, documentation pertaining to all logical and  
34 physical design of computerized systems, employee

1 manuals, and any other information that, if disclosed,  
2 would jeopardize the security of the system or its data  
3 or the security of materials exempt under this Section.

4 (q) Documents or materials relating to collective  
5 negotiating matters between public bodies and their  
6 employees or representatives, except that any final  
7 contract or agreement shall be subject to inspection and  
8 copying.

9 (r) Drafts, notes, recommendations and memoranda  
10 pertaining to the financing and marketing transactions of  
11 the public body. The records of ownership, registration,  
12 transfer, and exchange of municipal debt obligations, and  
13 of persons to whom payment with respect to these  
14 obligations is made.

15 (s) The records, documents and information relating  
16 to real estate purchase negotiations until those  
17 negotiations have been completed or otherwise terminated.  
18 With regard to a parcel involved in a pending or actually  
19 and reasonably contemplated eminent domain proceeding  
20 under Article VII of the Code of Civil Procedure,  
21 records, documents and information relating to that  
22 parcel shall be exempt except as may be allowed under  
23 discovery rules adopted by the Illinois Supreme Court.  
24 The records, documents and information relating to a real  
25 estate sale shall be exempt until a sale is consummated.

26 (t) Any and all proprietary information and records  
27 related to the operation of an intergovernmental risk  
28 management association or self-insurance pool or jointly  
29 self-administered health and accident cooperative or  
30 pool.

31 (u) Information concerning a university's  
32 adjudication of student or employee grievance or  
33 disciplinary cases, to the extent that disclosure would  
34 reveal the identity of the student or employee and

1 information concerning any public body's adjudication of  
2 student or employee grievances or disciplinary cases,  
3 except for the final outcome of the cases.

4 (v) Course materials or research materials used by  
5 faculty members.

6 (w) Information related solely to the internal  
7 personnel rules and practices of a public body.

8 (x) Information contained in or related to  
9 examination, operating, or condition reports prepared by,  
10 on behalf of, or for the use of a public body responsible  
11 for the regulation or supervision of financial  
12 institutions or insurance companies, unless disclosure is  
13 otherwise required by State law.

14 (y) Information the disclosure of which is  
15 restricted under Section 5-108 of the Public Utilities  
16 Act.

17 (z) Manuals or instruction to staff that relate to  
18 establishment or collection of liability for any State  
19 tax or that relate to investigations by a public body to  
20 determine violation of any criminal law.

21 (aa) Applications, related documents, and medical  
22 records received by the Experimental Organ  
23 Transplantation Procedures Board and any and all  
24 documents or other records prepared by the Experimental  
25 Organ Transplantation Procedures Board or its staff  
26 relating to applications it has received.

27 (bb) Insurance or self insurance (including any  
28 intergovernmental risk management association or self  
29 insurance pool) claims, loss or risk management  
30 information, records, data, advice or communications.

31 (cc) Information and records held by the Department  
32 of Public Health and its authorized representatives  
33 relating to known or suspected cases of sexually  
34 transmissible disease or any information the disclosure

1 of which is restricted under the Illinois Sexually  
2 Transmissible Disease Control Act.

3 (dd) Information the disclosure of which is  
4 exempted under Section 30 of the Radon Industry Licensing  
5 Act.

6 (ee) Firm performance evaluations under Section 55  
7 of the Architectural, Engineering, and Land Surveying  
8 Qualifications Based Selection Act.

9 (ff) Security portions of system safety program  
10 plans, investigation reports, surveys, schedules, lists,  
11 data, or information compiled, collected, or prepared by  
12 or for the Regional Transportation Authority under  
13 Section 2.11 of the Regional Transportation Authority Act  
14 or the St. Clair County Transit District under the  
15 Bi-State Transit Safety Act.

16 (gg) Information the disclosure of which is  
17 restricted and exempted under Section 50 of the Illinois  
18 Prepaid Tuition Act.

19 (hh) Information the disclosure of which is  
20 exempted under Section 80 of the State Gift Ban Act.

21 (ii) Beginning July 1, 1999, information that would  
22 disclose or might lead to the disclosure of secret or  
23 confidential information, codes, algorithms, programs, or  
24 private keys intended to be used to create electronic or  
25 digital signatures under the Electronic Commerce Security  
26 Act.

27 (jj) Information contained in a local emergency  
28 energy plan submitted to a municipality in accordance  
29 with a local emergency energy plan ordinance that is  
30 adopted under Section 11-21.5-5 of the Illinois Municipal  
31 Code.

32 (kk) Information and data concerning the  
33 distribution of surcharge moneys collected and remitted  
34 by wireless carriers under the Wireless Emergency

1 Telephone Safety Act.

2 (11) Information that, if disclosed, may compromise  
3 the security of public or private property, personnel, or  
4 facilities or emergency or disaster planning, response,  
5 or recovery.

6 (2) This Section does not authorize withholding of  
7 information or limit the availability of records to the  
8 public, except as stated in this Section or otherwise  
9 provided in this Act.

10 (Source: P.A. 91-137, eff. 7-16-99; 91-357, eff. 7-29-99;  
11 91-660, eff. 12-22-99; 92-16, eff. 6-28-01; 92-241, eff.  
12 8-3-01; 92-281, eff. 8-7-01; 92-645, eff. 7-11-02; 92-651,  
13 eff. 7-11-02.)

14 Section 99. Effective date. This Act takes effect upon  
15 becoming law.